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Honorable Benjamin H. Settle

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JOSEPH and RENNY FANGSRUD VON
ESCH,

Plaintiffs,

vs.

LEGACY SALMON CREEK HOSPITAL, et
al.,

Defendants.

Case No.: 3:16-CV-05842-BHS

ASSET SYSTEMS, INC.'S REPLY IN
SUPPORT OF ASSET'S MOTION TO
REMOVE STAY AND DECIDE ASSET'S
MOTION FOR ATTORNEY FEES AND
COSTS

NOTE ON THE MOTION CALENDAR:
November 13, 2020

Defendant Asset Systems, Inc. ("Asset") files this reply to advise the Court that it has not received any response by Plaintiffs to Asset's motion to remove the stay granted by the Court as to Asset's Motion for Attorneys' Fees and Costs, and for the Court to Decide Asset's Motion for Attorney Fees and Costs. Dkt. # 156.

Asset's Motion was filed on October 24, 2020, and noted for November 13, 2020. Thus, Plaintiff's response was due on or before November 9, 2020.

Judge Leighton said, in Ordering the stay:

ASSET SYSTEMS, INC.'S REPLY IN SUPPORT OF
ASSET'S MOTION TO REMOVE STAY AND DECIDE
ASSET'S MOTION FOR ATTORNEY FEES AND COSTS -
- Page 1
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The Court **GRANTS** the motion to stay *but adds a cautionary tale to the plaintiffs' lawyers.* ...

At trial the testimony and the documentary evidence were not consistent with the story told to the Court of Appeals. There was no lawsuit threatened by the billing company. The plaintiffs' lawyers, after sending a letter to Asset to cease and desist, would not return any of Asset's phone calls to clarify the situation. The lawyers in their letter instructed Asset to direct all communications to them, not their client. But the lawyers would not pick up the phone. Asset did communicate with the client hospital to question the accuracy of the debt the hospital placed into collection. The hospital verified the amount of the debt owed by the plaintiffs. The plaintiffs themselves were less than fully engaged in resolving the confusion between their insurance company, the hospital and the collection company. They did not promptly give the insurance information to Asset.

At trial the evidence demonstrated this situation has never occurred before or after this event. The billing company took reasonable steps to verify the legitimacy and accuracy of the debt they were trying to collect. This was a classic bona fide error for which the defendant cannot be fairly held accountable for the inconvenience experienced by the plaintiffs. ...

... It is difficult to fathom how the plaintiffs who suffered no financial loss and had multiple legitimate debts in collection all at the same time, can cobble up losses of multiple hundreds of thousands of dollars in emotional distress, dismissed an offer of \$20,000 in settlement, and instead exposed themselves for attorney fees of \$100,000 as the losing party. That is the "brutal truth." [For Emphasis.]

Dkt. # 150.

For the reasons explained in Asset's Motion [Dkt. # 156], Asset requests that the Court lift the stay [Dkt. # 150], and award judgment against Plaintiffs, jointly and severally, for costs of \$13,619.92.

Further, Asset also requests that the Court award judgment against Plaintiffs, and their attorneys, Robert W. Mitchell and his lawfirm, "Robert Mitchell, Attorney at Law, PLLC", and SaraEllen Hutchison and her lawfirm, "Law Office of SaraEllen Hutchison, PLLC", jointly and severally in the sum of \$103,465.50, plus an additional 10 hours of attorney fees for the reply. See Dkt. # 142.

Asset reserves the right to supplement this reply if Plaintiffs file an untimely response.

If the Court deems oral argument helpful, Asset would be happy to participate in oral argument in support of its Motions for fees and costs. Dkt. # 135 and 137. [Oral argument by telecommunication was requested by Asset in the original motion. See Dkt. # 135.]

1 Dated: November 10, 2020.

2 s/ Jeffrey I. Hasson
3 Jeffrey I. Hasson, WSBA#23741
4 Hasson Law, LLC
5 Attorney for Asset
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Certificate of Service

I hereby certify that on November 10, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following: Robert Mitchell, SaraEllen Hutchison and I hereby certify on that I mailed by United States Postal Service the document to the following:

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